

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

08 CV 6669

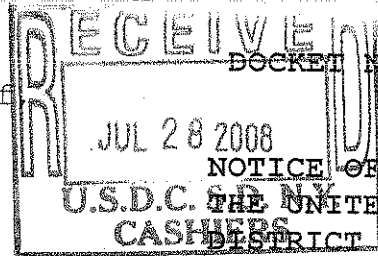
JUDGE LYNCH  
SHAUNA JAMES,

Plaintiff

-against-

MARRIOTT INTERNATIONAL, INC.,

Defendant.



DOCKET NUMBER:

NOTICE OF REMOVAL TO  
THE UNITED STATES  
DISTRICT COURT FOR  
THE SOUTHERN DISTRICT  
OF NEW YORK

Defendant, MARRIOTT INTERNATIONAL, INC., in the above-captioned action which was commenced in the Supreme Court of the State of New York, County of New York, gives notice that it is removing this action from the Supreme Court of the State of New York, County of New York, to this Court pursuant to 28 U.S.C. §1441.

1. A civil action has been commenced and is now pending against the defendant in the Supreme Court of the State of New York, County of New York, which action is entitled Shauna James v. Marriott International, Inc., bearing Index Number 108531/08.

2. On July 1, 2008, plaintiff served a copy of the Summons and Complaint upon the Secretary of State, State of New York, a copy of which is annexed hereto as Exhibit "1". Notice of service of process was received on behalf of Marriott International, Inc. by Corporation Service Company on July 7, 2008. The summons and complaint (Exhibit "1") constitutes copies of all initial process, pleadings and other papers served upon such defendant in this

action.

3. The above-described action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed to this Court by defendant under 28 U.S.C. §1332 and 28 U.S.C. §1441 in that:

a. Upon information and belief, plaintiff is a citizen and resident of County of Wake, State of North Carolina.

b. Defendant, Marriott International, Inc. is incorporated in the State of Delaware, with its principal place of business in the State of Maryland.

c. Upon information and belief, the amount in controversy herein exceeds \$75,000, exclusive of interest and costs. The plaintiff in the Complaint alleges in paragraph 21 that she was caused to suffer "serious injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries, plaintiff has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, plaintiff was and will continue to be, rendered unable to perform plaintiff's normal activities and duties and has sustained the resultant loss therefrom." The plaintiff further alleges in paragraph 22 of the complaint that "...plaintiff was damaged in a sum which exceeds the jurisdictional limits of all lower Courts which otherwise would have jurisdiction." The defendant denies

these allegations.

d. The initial pleadings in this matter were received by defendant on July 7, 2008.


e. The incident in question took place in New York, New York.

4. Accordingly, the parties are of diverse citizenship, the amount in controversy exceeds \$75,000 exclusive of interest and costs and federal jurisdiction is appropriate pursuant to 28 U.S.C. §1332.

WHEREFORE, the defendant, MARRIOTT INTERNATIONAL, INC., gives notice that the above-captioned action now pending against them in the Supreme Court of the State of New York, County of New York, is removed to this court.

DATED: Baldwin, New York  
July 24, 2008

Yours, etc.,



GREGORY E. BROWER (7780)  
CHESNEY & MURPHY, LLP  
Attorneys for Defendant  
Office & P.O. Address  
2305 Grand Avenue  
Baldwin, New York 11510  
(516) 378-1700

TO: MARK E. SEITELMAN  
LAW OFFICES, P.C.  
Attorneys for Plaintiff  
Office & P.O. Address  
111 Broadway, 9<sup>th</sup> Floor  
New York, New York 10006  
(212) 962-2626

MAR105 GEB/ct

**EXHIBIT "1"**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
SHAUNA JAMES,

Plaintiff,

-against-

MARRIOTT INTERNATIONAL, INC.,

Defendant.  
-----X

Index No.: 108531/08  
Date Purchased: 6/19/08  
SUMMONS

Plaintiff designates  
New York County as  
the place of trial.

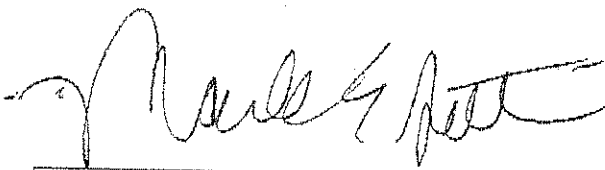
The basis of venue  
is:  
location of incident

Plaintiff resides  
at:  
2909 Mark Oak Court  
Raleigh, NC 27610

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
June 16, 2008

  
MARK E. SEITELMAN LAW OFFICES, P.C.  
Attorneys for Plaintiff  
111 Broadway, 9th Floor  
New York, NY 10006  
(212) 962-2625

**NEW YORK  
COUNTY CLERKS OFFICE**

TO: MARRIOTT INTERNATIONAL, INC.  
c/o The Prentice Hall Corporation System Inc.  
80 State Street  
Albany, New York 12207

**JUN 19 2008**

**NOT COMPARED  
WITH COPY FILE**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
SHAUNA JAMES,

Plaintiff,

-against-

VERIFIED COMPLAINT

MARRIOTT INTERNATIONAL, INC.,

Defendant.  
-----X

Plaintiff by her attorneys, MARK E. SEITELMAN LAW OFFICES, P.C. complaining of the Defendant, respectfully alleges, upon information and belief:

1. Plaintiff resides at 2909 Mark Oak Court, Raleigh, North Carolina 27610.

2. That at all times herein mentioned, the Defendant MARRIOTT INTERNATIONAL, INC. was and still is a foreign corporation duly authorized to do business in the State of New York.

NEW YORK  
COUNTY CLERK'S OFFICE

3. That at all times herein mentioned, the Defendant MARRIOTT INTERNATIONAL, INC., maintains its principal address c/o The Prentice Hall Corporation System Inc., 80 State Street, Albany, New York 12207.

JUN 19 2008

NOT COMPARED  
WITH COPY FILE

4. That at all times herein mentioned, the Defendant MARRIOTT INTERNATIONAL, INC. maintained a principal place of business in the County of , State of New York.

5. That at all times herein mentioned, the Defendant, MARRIOTT INTERNATIONAL, INC. was, and still is, a resident of the State of New York.

6. That at all times herein mentioned, the Defendant MARRIOTT INTERNATIONAL, INC. was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

7. That at all times herein mentioned, the Defendant MARRIOTT INTERNATIONAL, INC. was and still is a foreign corporation duly authorized to do business in the State of New York.

8. That at all times herein mentioned, the Defendant, MARRIOTT INTERNATIONAL, INC. was in the hotel industry.

9. On and before May 14, 2006 one of the Defendant, MARRIOTT INTERNATIONAL, INC.'s hotels was the Marriott Marquis located at 1535 Broadway, New York, New York 10036.

10. On and before May 14, 2006 said Marriott Marquis included a restaurant called The View.

11. That at all times herein mentioned, the Defendant, MARRIOTT INTERNATIONAL, INC. owned said hotel including said restaurant.

12. That at all times herein mentioned, and upon information and belief, the Defendant, MARRIOTT INTERNATIONAL, INC. managed the aforesaid hotel and restaurant.

13. That at all times herein mentioned, and upon information and belief, the Defendant, MARRIOTT INTERNATIONAL, INC. maintained the aforesaid hotel and restaurant.

14. That at all times herein mentioned, and upon information and belief, the Defendant, MARRIOTT INTERNATIONAL, INC. controlled the aforesaid hotel and restaurant.

15. That at all times herein mentioned, and upon information and belief; the Defendant, MARRIOTT INTERNATIONAL, INC. supervised the aforesaid hotel and restaurant.

16. That at all times herein mentioned, and upon information and belief, the Defendant, MARRIOTT INTERNATIONAL, INC. inspected the aforesaid hotel and restaurant.

17. On May 14, 2006 Plaintiff was a lawful patron at the aforesaid restaurant.

18. On May 14, 2006, while plaintiff was a lawful patron at the aforesaid restaurant she was misinformed as to the contents or presence of nuts in the desserts and as a consequence had an allergic reaction to same resulting in serious personal injuries and medical expenses.

19. The above mentioned occurrence, and the results thereof, were caused by the negligence of the Defendants and/or said Defendants' agents, servants, employees and/or licensees in the ownership, operation, management, supervision, maintenance and control of the aforesaid hotel and restaurant.

20. That no negligence on the part of the Plaintiff contributed to the occurrence alleged herein in any manner whatsoever.

21. That by reason of the foregoing, Plaintiff was caused to sustain serious injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries Plaintiff has been caused to incur, and will continue to



incur, expenses for medical care and attention; and, as a further result, Plaintiff was, and will continue to be, rendered unable to perform Plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

22. That as a result of the foregoing, Plaintiff was damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the Defendants herein, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated New York, New York  
June 16, 2008

Yours, etc.,



MARK E. SEITELMAN LAW OFFICES, P.C.  
Attorneys for Plaintiff  
111 Broadway, 9th Floor  
New York, NY 10006  
(212) 962-2626

ATTORNEY'S VERIFICATION

MARK E. SEITELMAN, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at MARK E. SEITELMAN LAW OFFICES, P.C., attorneys of record for plaintiff. I have read the annexed Complaint and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not plaintiff(s) is that plaintiff(s) is/are not presently in the county wherein the attorneys for the plaintiff(s) maintain their offices.

Dated: New York, New York  
June 16, 2008

  
MARK E. SEITELMAN

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NASSAU     )

**CAMI TURCHIN**, being duly sworn deposes and says:

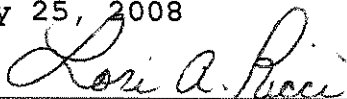
That deponent is not a party to this action, is over 18 years of age, and resides in Rockville Centre, New York.

That on July 25, 2008, deponent served the within NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK by filing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the United States Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

**MARK E. SEITELMAN**  
LAW OFFICES, P.C.  
Attorneys for Plaintiff  
111 Broadway, 9<sup>th</sup> Floor  
New York, New York 10006

  
\_\_\_\_\_  
**CAMI TURCHIN**

Sworn to before me on  
July 25, 2008

  
\_\_\_\_\_  
**NOTARY PUBLIC**

**LORI A. RICCI**  
Notary Public, State of New York  
No. 01RI5050242  
Qualified in Nassau County  
Commission Expires Oct. 2, 2009